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November 8, 2023

VIA E-Mail

Douglas Welmaker
Welmaker Law, PLLC
409 N. Fredonia St., Suite 118
Longview, TX 75601
doug@welmakerlaw.com

Re: *Marco Gonzalez, on behalf of himself and all others similarly situated v. J&J Pressure Management USA, LTD, U.S. District Court for the Western District of Texas, San Antonion Division, Civil Action No. 5:23-cv-1138*

Dear Mr. Welmaker:

Please see the attached Defendant's Notice of Motion for Rule 11 Sanctions pursuant to the Federal Rules of Civil Procedure Rule 11. You are advised that Defendant J&J Pressure Management will file a Motion for Rule 11 Sanctions against Plaintiff Marco Gonzalez and you, after the twenty-one (21) day notice period pursuant to FRCP 11(c)(2) if Plaintiff's Original Complaint is not withdrawn.

Should you wish to discuss this matter further, or have any questions, please give me a call.

Sincerely,



Carly E. McKenny
carly@helmslegal.com

CLH/CEM
Cc: Client

Enclosure(s)

EXHIBIT



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARCO GONZALES, ON BEHALF
HIMSELF AND ALL OTHERS
SIMILARLY SITUATED,

PLAINTIFF,

v.

J&J PRESSURE MANAGEMENT
USA, LTD.,

DEFENDANT.

CIVIL ACTION NO. 5:23-cv-1138

**DEFENDANT'S NOTICE OF MOTION FOR
RULE 11 SANCTIONS**

PLEASE TAKE NOTICE that Defendant, J&J Pressure Management (“Defendant”) will move this Court pursuant to Federal Rule of Civil Procedure 11(c), in the United States District Court for the Western District of Texas, San Antonio Division for an Order imposing sanctions against the Plaintiff, Marco Gonzalez, on behalf of himself and all others similarly situated (“Plaintiff”), and Plaintiff’s counsel Douglas B. Welmaker of Welmaker Law, PLLC, and for other and further relief as the Court deems just and proper. In support, Defendant submits Defendant’s Memorandum of Law, which is incorporated herein.

MEMORANDUM OF LAW

In accordance with Federal Rule of Civil Procedure 11(b), “By presenting to the Court a pleading, written motion, or other paper – whether by signing, filing, submitting, or later advocating it – an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) It is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

- (2) The claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
- (3) The factual contentions have evidentiary support or, if specifically, so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) The denials of factual contentions are warranted on the evidence, or, if specifically, so identified, are reasonably based on belief or a lack of information.”

FRCP 11(b). In the present case, Plaintiff Marco Gonzalez, by and through his attorney of record, Douglas Welmaker, has filed a Complaint against Defendant, J&J Pressure Management alleging frivolous and unwarranted claims not grounded in any evidence or factual basis. Plaintiff has alleged that Defendant has “stolen” his and other class members overtime pay consistently throughout their time of employment at J&J Pressure Management. Counsel for Defendant contacted counsel for Plaintiff and requested information on the dates and times Plaintiff claims involved. Plaintiff’s counsel response was that he needed more time to calculate damages by reviewing the time entries, and that the allegations are based on what the Plaintiff communicates to him. Defendant is in possession of Plaintiff’s pay records, and they show the exact amounts of overtime work completed by Defendant, and the corresponding pay to Plaintiff for those overtime hours. Further, Plaintiff’s supervisor explicitly denies the independent conversation with Plaintiff regarding reducing time entries or that reductions occurred. Clearly, Plaintiff and his counsel have no evidentiary support for the claims asserted.

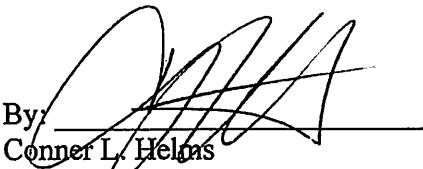
Under FRCP 11(c)(1), “If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any

attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.” Defendant thus demands that Plaintiff withdraw their Original Complaint and Complaint against Defendant in the allotted twenty-one (21) days under FRCP 11(c)(2), or a Motion for Rule 11 Sanctions will be filed with the United States District Court for the Western District of Texas, San Antonio Division.

Dated: November 8th, 2023
Oklahoma City, Oklahoma

Respectfully Submitted,

Helms Law Firm

By: 
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